

Securities and Exchange Commission

§ 4401.103

trading of securities or futures on securities or a group of securities, except this prohibition does not apply to securities holdings or transactions permitted by § 4401.102;

(C) Employment otherwise involved with the securities industry; or

(D) Employment otherwise in violation of any applicable law, rule or regulation.

(2) *Prohibitions and restrictions on members.* (i) Members of the Commission may engage in outside employment only to the extent permitted by Section 4(a) of the Securities Exchange Act of 1934, 15 U.S.C. 78d(a). This provision does not preclude members from engaging in permitted securities transactions.

(ii) Notwithstanding the absence of a statutory prohibition, a member may not engage in any outside employment or activity, if such outside employment or activity would materially impair the member's ability to perform properly the member's duties. Such outside

employment or activity includes such fiduciary relationships such as serving as a trustee, executor or corporate director.

(d) Employees are required to submit proposed publications or prepared speeches relating to the Commission, or the statutes or rules it administers, to the Commission's Office of the General Counsel's Ethics Office for review, pursuant to the Commission's Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission, 17 CFR 200.735-4 (Outside Employment and Activities). Any such publication or speech must include the disclaimer prescribed in 17 CFR 200.735-4(c). Employees who wish to engage in teaching, writing or speaking for compensation should review the provisions of 5 CFR 2635.807 (Teaching, Speaking, and Writing).

[75 FR 42273, July 20, 2010, as amended at 76 FR 19902, Apr. 11, 2011]

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MANAGEMENT

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PART 4501—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE OFFICE OF PERSONNEL MANAGEMENT

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AUTHORITY: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978), E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.702, 2635.703, 2635.802, 2635.803, 2635.805.

SOURCE: 61 FR 36996, July 16, 1996, unless otherwise noted.

§ 4501.101 General.

In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Office of Personnel Management (OPM) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. In addition to the regulations in 5 CFR part 2635 and this part, OPM employees are subject to the responsibilities and conduct regulations contained in 5 CFR parts 735 and 1001, the executive branch-wide financial disclosure regulations contained in 5 CFR part 2634, and the executive branch regulations regarding outside employment at 5 CFR part 2636.

§ 4501.102 Examination information.

(a) An employee of OPM who takes part in the construction of written tests or any other assessment device, has access to such material, or is involved in the examination rating process, shall notify his supervisor, in writing, when he intends to file for a competitive examination, an internal competitive examination, or an Armed Services entrance examination. The employee also must give such notice if he knows that his spouse, minor child, or business general partner intends to take any of these examinations.

(b) The employee's supervisor or other appropriate authority will arrange the employee's duty assignments to prevent his contact with materials related to the examination or examinations that will be taken. If the test ma-

terial involved in the forthcoming examination has already been exposed to the employee, arrangements will be made for the employee or other person concerned to be given an alternate test.

(c) The employee's supervisor is responsible for seeing that notifications given by employees under this section are transmitted promptly to the Test Security Officer in OPM's Employment Service.

§ 4501.103 Prior approval for certain outside activities.

(a) *Prior approval requirement.* An employee, other than a special Government employee, shall obtain written approval before engaging—with or without compensation—in the following outside activities:

(1) Providing professional services involving the application of the same specialized skills or the same educational background as performance of the employee's official duties;

(2) Teaching, speaking, or writing that relates to the employee's official duties;

(3) Serving as an officer, director, trustee, general partner, employee, agent, attorney, consultant, contractor, or active participant for a prohibited source, except that prior approval is not required by this paragraph (a)(3) to provide such service without compensation (other than reimbursement of expenses) for a prohibited source that is a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization, unless prior approval for the activity is required by paragraph (a)(1), (a)(2), or (a)(4) of this section, or unless the organization receives or seeks to receive fundraising support through the Combined Federal Campaign (CFC) under 5 CFR part 950 and the employee's official duties involve the administration of the CFC program; or

(4)(i) Except as provided in paragraph (a)(4)(ii) of this section, providing services, other than clerical services or service as a fact witness, on behalf of any other person in connection with a particular matter:

(A) In which the United States is a party;

(B) In which the United States has a direct and substantial interest; or

(C) If the provision of services involves the preparation of materials for submission to, or representation before, a Federal court or executive branch agency.

(ii) Prior approval is not required by paragraph (a)(4)(i) of this section for OPM employees acting on behalf of the labor organization that is the exclusive representative of the OPM employees in the unit it represents to provide services as an agent or attorney for, or otherwise to represent, such an OPM employee who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings.

(b) *Submission of requests for approval.*

(1) Requests for approval shall be submitted in writing to the agency designee, through normal supervisory channels. Such requests shall include, at a minimum, the following:

(i) The employee's name and position title;

(ii) The name and address of the person or organization for whom the outside activity is to be performed;

(iii) A description of the proposed outside activity, including the duties and services to be performed while engaged in the activity; and

(iv) The proposed hours that the employee will engage in the outside activity, and the approximate dates of the activity.

(2) Together with his request for approval, the employee shall provide a certification that:

(i) The outside activity will not depend in any way on nonpublic information;

(ii) No official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside activity; and

(iii) The employee has read subpart H ("Outside Activities") of 5 CFR part 2635.

(3) Upon a significant change in the nature or scope of the outside activity or in the employee's official position, the employee shall submit a revised request for approval.

(c) *Approval of requests.* Approval shall be granted only upon a determination by the agency designee, in consultation with an agency ethics official when such consultation is deemed necessary by the agency designee, that the outside activity is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

(d) *Definitions.* For purposes of this section:

(1) *Active participant* has the meaning set forth in 5 CFR 2635.502(b)(1)(v).

(2) *Nonpublic information* has the meaning set forth in 5 CFR 2635.703(b).

(3) *Professional services* means the provision of personal services by an employee, including the rendering of advice or consultation, which involves application of the skills of a profession as defined in 5 CFR 2636.305(b)(1).

(4) *Prohibited source* has the meaning set forth in 5 CFR 2635.203(d).

(5) *Relates to the employee's official duties* has the meaning set forth in 5 CFR 2635.807(a)(2)(i)(B) through (a)(2)(i)(E).

[61 FR 36996, July 16, 1996; 62 FR 32859, June 17, 1997]